



RICHARD J. CODEY  
Acting Governor

***New Jersey Office of the Attorney General***

Division of Consumer Affairs  
New Jersey State Board of Physical Therapy Examiners  
124 Halsey Street, 6<sup>th</sup> Floor, Newark, NJ 07102

OCT 18 2005



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By Certified and Regular Mail

September 29, 2005

Rachel Guilshan, P.T.  
180 Crown Point Road  
Parsippany, N.J. 07054

Re: Offer of Settlement in Lieu of Filing a Formal Disciplinary Complaint

Dear Ms. Guilshan:

This letter is to advise you that the New Jersey State Board of Physical Therapy Examiners ( "Board") has had an opportunity to review information concerning the physical therapy treatment you rendered to R.S. at Denville Medical Sports Rehabilitation Center on February 9, 10,11, 16 and 18, 2004. Specifically, the information reviewed consisted of R.S.'s patient record and the testimony at the investigative inquiry that you attended with your attorney, Joseph Gorrell , Esquire on November 9, 2004 and the testimony of Tim Martin, PTA at an investigative inquiry held on April 12, 2005 also attended by Mr. Joseph Gorrell, Esquire. Specifically, the Board concluded the following from the information reviewed:

R.S. complained about the physical therapist assistant taping his knee, the licensees' failure to assure that the vinyl covered benches were sanitized, the staff's failure to wear name tags and the close proximity of the tables where patients received treatment along side other patients.

A review of your testimony and the patient record demonstrated that you have been employed at Denville Medical Sports Rehabilitation Center from March of 2002 to the present and that you hold the title of supervising physical therapist. In addition to providing physical therapy treatment to patients, your duties as supervising physical therapist also include but are not limited to the overseeing of the physical therapy staff, performance of annual staff reviews, training staff and scheduling of patients with an appropriate staff member (T12:19-25 and T13:1-20).

Your testimony further confirmed that you are familiar with this patient who came in for physical therapy on February 9, 2004 after arthroscopic surgery of his knee. Your testimony also confirmed that you prepared an initial evaluation of this patient. The

initial evaluation indicated that the patient's knee was within normal range and did not support taping. According to your testimony and the patient record the taping of this patient's knee was performed by Tim Martin, physical therapist assistant, (PTA) and you were not aware as to why the taping of the knee occurred as it was not supported by the findings on the initial evaluation. Upon further questioning, you also admitted that Tim Martin, as a PTA should not have independently determined to tape this patient's knee (T30:7-12) and that you did not have any discussions with Mr. Martin prior to his taping the patient's knee on February 10, 2004.

The record further demonstrated that the patient was administered an isokinetic test which was performed by Tim Martin, PTA. Your testimony further confirmed that the results of your initial evaluation did not correlate with the findings of the isokinetic testing. The test indicated extension deficit existed while the findings of your initial evaluation showed an opposite result. Further, in your initial evaluation you established a goal to decrease the edema but the patient record did not contain measurements. An additional goal established was to increase range of motion but the patient record did not indicate any deficits. Another goal established in the patient record was to improve proprioception, however, the patient record did not indicate that this was tested. (T29:22-25 and T30:1-6).

Upon questioning concerning the wearing of name tags by staff, it was your testimony that name tags were recently ordered and that staff at that time did not use name tags on a consistent basis.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that your actions violated N.J.S.A. 45:9-37.20 and N.J.A.C. 13:39A-7.1(a and c) & 7.2(b) and (c) in that you failed to properly supervise the physical therapist assistant. Specifically, the physical therapist assistant taped the patient's knee without your direction and supervision and without any prior communication with you. You also failed to countersign the physical therapist assistant's notes contemporaneously with the services rendered, as the treatment record for this patient contains notes for five separate days including January 29, 2004, February 10, 2004, February 11, 16 and 18, 2004 on one page and your signature appears only once. Thus, it is difficult to discern from the record when you countersigned the work of the PTAs nor does the patient record support when not signed the progress notes for the treatments provided by the PTAs. As a supervisor of staff at this facility the Board also finds that you have violated N.J.A.C. 13:39A-3.9. as both you and your staff members failed to wear name tags. In addition to this, as supervising physical therapist the Board also holds you responsible for the advertising of improper titles of staff members on the facility's web page. Specifically, the Board is referring to the advertising of Holly Terranova, as a physical therapist assistant both on business cards and on the web page for the facility when Ms. Terranova is not a licensed PTA in violation of N.J.A.C. 13:39A-8.1.

Additionally, the Board also finds that the patient record in this instance demonstrates poor documentation as the goals established do not coordinate with the plan of care which is in violation of N.J.A.C. 13:39A-3.1(c)7 and 9. Specifically, a goal was established to increase range of motion but the patient record reflects that the ranges were within normal limits. Another goal was to provide patella mobilization but the record does not support a loss. Furthermore, you ordered an isokinetic test for a post operative patient which the board finds to be an inappropriate test for this patient's condition.

At this juncture, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you

an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceedings, should you consent to:

1. Cease and desist in the future from failing to properly supervise a physical therapist assistant who is providing treatment to patients under your direct supervision as required by N.J.S.A. 45:9-37.20 and N.J.A.C. 13:39A- 7A.1 and 7A.2.
2. Cease and desist in the future from maintaining patient records that contain goals which are not supported by the findings recorded in the record as required by N.J.A.C. 13:39A-3.1.
3. Cease and desist in the future from failing to wear a name tag at your place of employment as set forth in N.J.S.A. 13:39A-3.6 and require all licensed physical therapists and physical therapist assistants to wear name tags on a daily basis.
4. This shall serve as a formal reprimand for violation of N.J.S.A. 45:9-37.20 and N.J.A.C. 13:39A-3.1, 13:39A- 7A.1 and 7A.2 and N.J.A.C. 13: 39A-8.1
5. Pay a penalty in the amount of \$5,000.00 consisting of \$3000.00 for violations of improper supervision of the physical therapist assistant and the global supervision of staff in violation of N.J.S.A. 45: 9-37.20 ,N.J.A.C. 13:39A-7A.1 and 7A.2, N.J.A.C. 13:39A-3.6 and N.J.A.C. 13: 39A-8.1 AND \$2000.00 for violations of the record keeping violations as set forth in N.J.A.C. 13:39A-3.1(c) 7 and 8. Payment shall be remitted in full within thirty days of the acceptance of this settlement letter by certified check or money order to the Board of Physical Therapy, attention Susan Gartland, Executive Director, P.O. Box 45014, 124 Halsey Street, Newark, New Jersey 07101. Should you fail to remit the full amount of the payment and or costs as agreed upon in this letter, the Board may file a certificate of debt against you with the Clerk of the Superior Court of New Jersey.
6. Pay costs in the amount of \$298.50 within thirty days of the date of acceptance of this letter which represents the total amount of the entire investigation as reflected in the certification of Susan Gartland, Executive Director that is attached hereto.

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

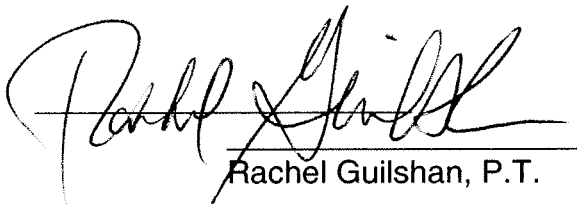
In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order, requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you have Joseph Gorrell, your attorney contact Deputy Attorney General, Carmen A. Rodriguez who may be reached at (973)-648-3696.

If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

NEW JERSEY STATE BOARD OF  
PHYSICAL THERAPY EXAMINERS

By:   
Susan Gartland  
Executive Director

ACKNOWLEDGMENT: I, Rachel Guilshan, P.T., hereby acknowledges that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of \$5000.00 plus costs in the amount of \$298.50 for a total of \$5,298.50 to be paid upon signing of this acknowledgment).

  
Rachel Guilshan, P.T.

DATE: 10/14/05

cc: Joseph Gorrell , E.S.Q.  
Carmen A. Rodriguez, D.A.G.